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DECLARATION

I, Irving Keschner, declare as follows:

1. That I am the attorney prosecuting application serial no. 10/036,167 on behalf of the applicant Walter N. Bakly, Jr.

2. That I have been involved in the field of patent law for over thirty-eight (38) years, including two and one-half years as a patent examiner, over thirteen years as a corporate patent attorney and in private practice for over twenty-two years.

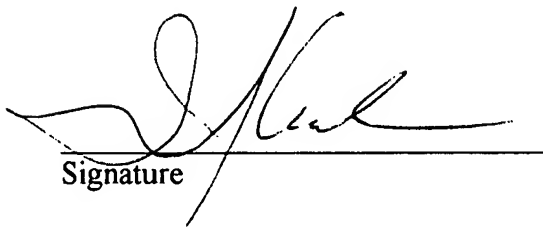
3. That the procedure I utilized in my practice was, before the anthrax event in Washington, D.C. area, to forward patent applications to the Patent and Trademark Office ("PTO") via first class mail unless circumstances dictated (i.e. priority dates, possible statutory bars, etc.) otherwise.

4. That, with respect to the '167 application, my recollection is that it was executed on and deposited in the Postal Service facilities on October 31, 2001, the date of the filing fee check (copy of check enclosed) well before the critical date of November 10, 2001.

5. That my prior experience with mail forwarded to the PTO via first class mail was that it typically took no longer than five (5) days to reach the PTO when mailed from California.

6. That in view of the anthrax event in the Washington, D.C. area and, as a result, the Postal Service's delay in delivering the mail to the PTO, the '167 application was assigned a filing date of January 4, 2002, a date which, if allowed to stand, will cause applicant irreparable harm.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.


Signature

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PAY TO THE ORDER OF Commissioner of Patents and Trademarks \$ 370^{00/100}

DATE October 31, 2001

Three Hundred and Seventy Dollars

FOR Patent Agent: Walter Barry

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